IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HONOURABLE SRI JUSTICE N.V.RAMANA

Writ Petition No.17800 of 2006

Dated:28-08- 2006

Between:

Y.N.Reddy

…..PETITIONER

AND

A.P.S.R.T.C,
Rep by its Managing Director,
Musheerabad, Hyderabad and another

….RESPONDENTS

THE HONOURABLE SRI JUSTICE N.V.RAMANA

W.P.No. 17800 of 2006

ORDER:

Assailing the action of the respondents in not paying the gratuity amount to the petitioner for his out of employment period i.e., from 9.6.1977 to 11.11.1986, the present writ petition is filed.

The petitioner while working in the Corporation as conductor was removed from service by proceedings dated 9.6.1977. Questioning the removal order dated 9.6.1977, he raised an Industrial Dispute and the same was registered as I.D.No. 248 of 1985 on the file of the Additional Industrial Tribunal cum Additional Labour Court, Hyderabad. The Labour Court on consideration of the matter, passed an award dated 1.5.1986 directing reinstatement into service with continuity of service and all other attendant benefits but without backwages. In terms of the award of the Labour Court the petitioner was reinstated into service in the year 1986 and subsequently promoted as Assistant Depot Clerk and retired on 31.3.2006 on attaining the age of superannuation.

The grievance of the petitioner is that he is entitled to an amount of Rs.2,07,864/- towards gratuity and the respondent corporation has only paid an amount of Rs.1,21,050/- excluding an amount of Rs.86,814/- for out of employment period - i.e., from the date

of removal to date of reinstatement. The petitioner states that he has issued a legal notice dated 4.6.2006 to the second respondent to release the withheld amount of gratuity and having received the same, no action was taken till date.

The learned counsel for the petitioner submits that the issue involved in this Writ Petition is squarely covered by a decision of this Court in ***M.Rama Rao Vs. Asst. Traffic Manager, A.P.S.R.T.C, Hyderabad and another***[1] wherein this Court held that in a case where under Section 11 of the Industrial Disputes Act, 1947, the Labour Court has set aside the order of removal of any employee and directed that the employee be reinstated into service with continuity of service, the management could not deny the payment of gratuity to the employee on his retirement for the period during which he was out of employment as a result of the illegal order of removal.

The learned counsel for the respondents also conceded that the present the writ petition is covered by the above said judgment and the petitioner is entitled for the relief sought for.

Heard the learned counsel for the petitioner as also the learned Standing Counsel for A.P.S.R.T.C.

The petitioner was reinstated into service in terms of award of Labour Court in the year 1986 and subsequently promoted to the post of Assistant Depot Clerk and retired from service on attaining the age of superannuation. The award of the Labour Court has become final. Hence, the respondents cannot withheld the gratuity amount for the out of employment period and the ratio laid down by this Court in ***M.Rama Rao*** case is applicable to the petitioner herein.

Since the facts of this case are squarely covered by the judgment of this Court in ***M.Rama Rao*** case (cited supra), following

the said judgment and for the reasons mentioned above, the writ petition is disposed of directing the respondents to compute the gratuity payable to the petitioner taking into account the out of employment period i.e., from the date of removal till the date of reinstatement and take necessary steps for payment of balance gratuity amount expeditiously. No costs.

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(N.V. RAMANA, J.)

Date:28-8-2006.

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[1] 1998 (3) ALD 76